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SUBJECT: MOZAMBIQUE AWASH IN A SEA OF COUNTERFEITS

1. (SBU) SUMMARY: Econoff and visiting CommOff canvassed a wide spectrum of stakeholders in regards to intellectual property (IP) from August 13-21. Mozambique is making some headway, as the issue is gaining some attention at the highest levels--President Armando Guebuza made two public statements in support of IP protection and against counterfeit goods in the past two months. Most interlocutors indicate that the Government of Mozambique's (GRM) IP laws are sufficient, but enforcement is virtually non-existent. Several instances of counterfeit good sales in Mozambique have involved forgeries of brands sold by U.S. companies. In two cases, the trademark of U.S. companies has been registered by local business persons intent on selling counterfeit versions of U.S. products in Mozambique, despite protests from U.S. companies. Several companies have also complained of unfair competition against genuine products smuggled from neighboring countries that avoid tariffs and VATs. END SUMMARY.

WHERE ARE THE COUNTERFEIT GOODS COMING FROM?

2. (SBU) Mozambique is awash in a sea of counterfeit goods. Visitors need only to sit for a few seconds at sidewalk cafes before they are approached by hawkers selling pirated DVDs, fake watches, counterfeit sunglasses, and knock-off pens. The sale of counterfeit goods extends to the formal retail sector as well, with counterfeit goods featuring in even the most up-market malls of Maputo. While the majority of counterfeit goods in Mozambique are from China, others have been sourced from India, Indonesia, Nigeria, Pakistan, and South America. Still other products, such as pirated DVDs, CDs, and liquid dish soap appear to be packaged and produced domestically by Chinese businessmen with a knowledge of counterfeiting. Several sources noted that a few unscrupulous but well-connected Mozambicans appear to be importing and selling a wide variety of counterfeited products, particularly shoes, apparel, and sports equipment, with the knowledge of senior members of the government and ruling party.

WHAT'S THE GRM MISSING?

3. (SBU) As part of a broader Department of Commerce initiative designed to strengthen IP enforcement efforts in Africa and assist adversely affected U.S. companies operating on the continent, visiting ITA/MAC CommOff and Econoff met with a wide range of Government of Mozambique (GRM) officials, foreign investors, entrepreneurs, legal experts, and members of the donor community August 13-21. All interlocutors called for greater IP enforcement under existing laws. Several IP lawyers pointed out that Mozambique has yet to draft laws on competition, and an authority to monitor competition is needed. Others explained that current IP laws, which were revised in June, 2006, do not adequately centralize enforcement powers, but instead

provide for an unhappy marriage between Customs and the Ministry of Industry and Commerce (MIC) which share the responsibility. Still others comment that the institutional framework is not in place to handle IP issues, particularly in the judiciary, where the Administrative Court has made only two decisions on IP-related cases in 8 years. The administrative courts were described as under-trained and inexperienced by nearly all our contacts.

14. (SBU) The GRM Director of Customs Audit, Investigations, and Intelligence division explained that Mozambique's 1,500 customs officers constitute the first line of defense against counterfeit goods, but do not have the capacity to easily identify counterfeit goods, nor do they have the authority to confirm counterfeit cases and provide expert testimony in Mozambican courts, under current laws. A second shortcoming of the current laws is that Customs has no authority of seizure should goods be produced locally, or intercepted outside of the ports. Customs officials called for expanded information sharing on counterfeit goods interceptions, and additional training of officers across Customs and MIC, as well as the judiciary, as a means of building capacity on IP issues.

15. (SBU) Businessmen and industry analysts alike pointed to the absence of a qualified Bureau of Standards in Mozambique as a significant problem for the GRM. A qualified Standards Board would be able to provide expertise to determine not only the quality of products, but also differentiate between counterfeit and genuine goods. Several interlocutors discounted the capabilities of the current equivalent body, INOC, in the Ministry of Trade, which has not shown the

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capacity or technical expertise to develop standards for more than a handful of products. Lack of standards in Mozambique not only allows for counterfeit goods, but also hurts the country's ability to export to exacting markets like the U.S. and E.U. Kekobad Patel of the quasi-governmental business development association CTA commented that Mozambique struggles to export products other than raw materials under AGOA because of an inability to conform to standards required by the U.S. consumer.

INTELLECTUAL PROPERTY INSTITUTE - A POSITIVE EXAMPLE

16. (SBU) The director of the Intellectual Property Institute (IPI), a semi-autonomous group under the Ministry of Trade, explained that in a developing country like Mozambique that it was difficult to get both the business community and the government to focus on IP issues. IPI has had some success with raising public awareness on trade mark and patents since it began registrations in 1999 and Mozambican companies accounted for only 3 percent of registered companies. Today 41 percent of registered trade marks are for domestic companies, with 90 percent of the 2,709 trade marks registered last year being issued to companies in Maputo province. The director also explained that intra-agency cooperation is increasing, with monthly Customs Enforcement Taskforce meetings, in which all GRM stakeholders share intelligence on counterfeit goods.

HOW HAVE MULTI-NATIONAL COMPANIES BEEN AFFECTED?

17. (SBU) Unilever has seen several assaults on its products over the past few years. OMO, its clothing detergent brand saw a 30 percent loss in market share due to competition from Chinese counterfeit versions of its product. Its liquid dish soap brand Sunlight has also been pressured by the presence of counterfeiters who collect and recycle used bottles, filling them with locally-sourced liquid soap of unknown

quality. A third Unilever product, Rajah Spices, was counterfeited using bulk spices sourced from Pakistan, and packaging produced in Maputo. Other U.S. companies have seen attempts to register trademarks in Mozambique under names such as Arley-Davidson, Skechers, and Timberland in an effort to "legitimately" sell counterfeit goods in the domestic market.

HP EXPOSES FAKE TECH AND GOV,T PROCUREMENT PROBLEMS

18. (SBU) Consultrajin, Hewlett-Packard,s representative in Mozambique, highlighted concerns with government procurement of computers and computer parts from vendors who are sourcing counterfeit goods. While statistics are unavailable, the company held a press conference on the 24th of July raising its concerns that the GRM, one of the largest buyers of IT products in Mozambique, continues to procure counterfeit computers and accessories. As a result, providers of genuine products cannot compete for government contracts. Consultrajin representatives also pointed out that due to the poor quality of the counterfeited products, the government often ends up replacing these computers and components with greater frequency, eventually costing more than the genuine article. Since over 50 percent of the GRM budget is supported by a consortium of EU donors called the G19, Consultrajin argued that the G19 is supporting the counterfeit computer industry in Mozambique.

COMMENT: NO POLITICAL WILL TO TACKLE COUNTERFEIT GOODS

19. (SBU) Several interlocutors discounted President Guebuza's July 11 comments condemning piracy and counterfeit goods as "cancers" in Mozambican society, pointing to historical inaction by the GRM in the area of enforcement. However, an August 21st public statement by Guebuza expressing concern about counterfeit goods and the damage they do to consumers, the economy, and the GRM's tax revenues on IP--the second such statement in as many months--may mark a change in the GRM's approach. Some contacts suggest that Guebuza's close relationship with China and broad-based corruption throughout the country mean that counterfeit goods will continue to enter Mozambican ports with relative ease. Nonetheless, a majority of non-governmental contacts confirmed that the GRM does not, as yet, have the political will to provide rigorous IP

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enforcement and rid its markets of counterfeited goods. Highly price-sensitive consumers, and a merchant class dominated by traders willing to source counterfeit products without fear of prosecution suggest that the problem of counterfeit goods is unlikely to be resolved in Mozambique in the near term. In the meantime, the Embassy is pressing the government to commit to using only legal computers and software, and we are collaborating with Commerce, USPTO, and other stakeholders to leverage training resources from the United States, southern Africa, and Mozambique to build local capacity and continue to raise awareness on IP issues.
Chapman